

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, and SANDRA
McCOLLUM, individually, and STEPHANIE
KINGREY, individually and as independent
administrator of the Estate of LARRY GENE
McCOLLUM,

PLAINTIFFS

V.

BRAD LIVINGSTON, JEFF PRINGLE, §
RICHARD CLARK, KAREN TATE, §
SANDREA SANDERS, ROBERT EASON, the §
UNIVERSITY OF TEXAS MEDICAL §
BRANCH and the TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE. §

DEFENDANTS §

CIVIL ACTION NO.
3:12-cv-02037
JURY DEMAND

**PLAINTIFFS' RESPONSE TO DEFENDANT UNIVERSITY OF TEXAS
MEDICAL BRANCH'S MOTION TO DISMISS SECOND AMENDED
COMPLAINT**

Plaintiffs respectfully ask the Court to deny Defendant University of Texas Medical Branch's Motion to Dismiss the Second Amended Complaint, and argue:

1. Plaintiffs, the survivors of Larry McCollum, more than adequately plead UTMB violated McCollum's rights under the Americans with Disabilities Act and Rehabilitation Act by denying him reasonable accommodations for his disabilities.
2. Two other district court judges, including Judge O'Connor from this Court, denied virtually identical motions filed by prison medical providers. This court should follow the Southern District of Texas and this Court's own precedent and deny UTMB's motion. *See Hinojosa v. Livingston*, Civil Action No. 2:13-CV-319, Doc. 24 (S.D. Tex. Jan. 16, 2014) (Gonzales Ramos, J.) (attached as *Exhibit 1*); *Wright v. Texas Department of Criminal Justice*, No. 7:13-cv-0116-O, Doc. 16 (N.D. Tex. Dec. 16, 2013) (O'Connor, J.) (attached as *Exhibit 2*).

For these reasons, and those more fully developed in the attached Brief in Support, Defendant's motion should be denied.

DATED: February 26, 2014.

Respectfully submitted,

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CERTIFICATE OF SERVICE

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Northern District of Texas.